

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

IESE SATELE TUPEA,

Plaintiff,

v.

CIVIL NO. 2:23cv240

MATTHEW JAY KLINE,

SOUTHAMPTON COUNTY,

SOUTHAMPTON COUNTY SHERIFF'S OFFICE,

and

JOSH WYCHE, SR.

Defendants.

ORDER

This matter comes before the court on Defendant Matthew Jay Kline's Motion to Dismiss, ECF No. 16, and the Motion for Judgment on the Pleadings filed by Southampton County, the Southampton County Sheriff's Office, and Sheriff Josh Wyche, Sr., ECF No. 20.

On October 19, 2023, the Government Defendants filed a Request for Hearing on their Motion, ECF No. 26, and on October 20, 2023, Mr. Kline filed a Request for Hearing on his Motion, ECF No. 28. The court granted both requests and scheduled a hearing on both motions. ECF Nos. 27, 29. The court convened for a hearing on December 8, 2023, at 12:00 P.M., and heard arguments from counsel.

For the reasons stated from the bench, at this juncture on a Motion to Dismiss, drawing all inferences in favor of the nonmoving party, the court **DENIED** Defendant Kline's Motion to Dismiss, ECF No. 16. The Complaint sufficiently alleges the tort claims against him, i.e., negligence, gross negligence, and willful and wanton negligence (recklessness), and the alleged claims under 18 U.S.C. § 1983. Defendant Kline shall file an Answer to Plaintiff's Complaint within twenty-one (21) days.

The court also **DENIED** Sheriff Josh Wyche's Motion for Judgment on the Pleadings, ECF No. 20. The claim of vicarious liability alleged against Sheriff Wyche for Kline's alleged torts, and the alleged Monell claim under 18 U.S.C. § 1983, will proceed at this juncture, having been sufficiently alleged in the Complaint. Finally, the parties noted their agreement to dismiss Southampton County and the Southampton County Sheriff's Office from the case, and a proposed order to that effect shall be presented to the court within fourteen (14) days.

The Clerk is **DIRECTED** to forward a copy of this Order to counsel for the parties.

IT IS SO ORDERED.

/s/ -
Rebecca Beach Smith
Senior United States District Judge

REBECCA BEACH SMITH
SENIOR UNITED STATES DISTRICT JUDGE

December 8 , 2023